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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,442	07/23/2003	Frank Charles Scozzafava	0003/001	1836
7590		01/19 2005	EXAMINER	
Cynthia L. Smith		RODRIGUEZ, RUTH C		
Unit #3J		ART UNIT		
1351 West Altgeld Street		PAPER NUMBER		
Chicago, IL 60614		3677		

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/626,442	SCOZZAFAVA, FRANK CHARLES	
	Examiner	Art Unit	
	Ruth C Rodriguez	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/23/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10, drawn to a kit apparatus, classified in class 63, subclass 19.4.

II. Claims 11-19, drawn to a method for forming a temporary body art, classified in class 156, subclass 598.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in materially different process of use since the independent claim of the product does not include a first exposed adhesive side and a backing side. The method of use can be to apply the transfer sheet to the body and then applying the sprinkable decorative material over the transfer sheet.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Cynthia L. Smith on 10 January 2005 a provisional election was made without traverse to prosecute the invention of I, claim 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

3. The information disclosure statement filed 23 July 2003 has been considered as for this Office Action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hartelius et al. (US 6,035,857).

A kit apparatus for decorating a human body comprises a patterned transfer sheet (C. 2, L. 59-61) and a plurality of capsules (90,92) (Abstract). The transfer sheet has a plurality of releasable themed ornamental patterns thereon since it is inherent that

the stickers have an ornamental pattern. The plurality of capsules contains one or more sprinkle-able decorative materials (C. 2, L. 56-59).

The sprinkle-able decorative material is selected from the group consisting of colored sand, colored cosmetic grade glitter and glow-in-the-dark powder (C. 2, L. 56-59).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartelius.

Hartelius discloses a kit for decorating a human body having all the limitations mention above in paragraph 3 for the rejection of claim 1. Hartelius fails to disclose that the kit further comprises an instruction sheet. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an instruction sheet with the kit since it is well known in the art at the time the invention was made to include an instruction sheet in the package enclosing the kit on to assemble the kit.

Hartelius also fails to disclose that the plurality of releasable themed ornamental pattern comprises geometric shapes, holiday themed shapes or erotic themed shapes. However, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have geometric shapes, holiday themed shapes or erotic themed shapes as the themed ornamental patterns since it is well known in the art at time of applicant's invention to have different themes to be used in accordance with the preferences of the user.

8. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartelius in views of Abraskin et al. (US 2003/0131862 A1).

Hartelius discloses a kit for decorating a human body having all the limitations mention above in paragraph 3 for the rejection of claim 1. Hartelius also disclose that the kit can be used to store other accessories and glitter is given as one example of accessories. Hartelius fails to disclose that the accessories can be a plurality of ornamental studs. However, Abraskin teaches the use of a plurality of ornamental studs (10) for decorating a human body (20,22). The use of the plurality of ornamental studs serves to decorate as part of a fashion trend (Paragraph 0003). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of ornamental studs as taught by Abraskin in the kit disclosed by Hartelius since the ornamental studs are well known to be use in order to improve the appearance of the human body by decorating the body.

The plurality of ornamental studs taught by Hartelius is selected from the group consisting of metal spikes having a flat back surface, metal studs having a flat back surface, and pseudo-jewels (10) having a flat back surface.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartelius in views of Komuta et al. (Us 2002/0106493 A1)

Hartelius discloses a kit for decorating a human body having all the limitations mention above in paragraph 3 for the rejection of claim 1. Hartelius fails to disclose any details of the patterned transfer sheet and therefore, it fails to disclose that the sheet further comprises a double-sided medical grade adhesive material sandwiched between two release liners. However, Komuta teaches a transfer sheet for a nail decoration. The patterned transfer sheet comprises a double-sided medical grade adhesive material (2,3,4) sandwiched between two release liners (1,6). The sheet is provided to improve the appearance of the user since it provides a decoration (Paragraph 0002 and 003). Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to have a double-sided medical grade adhesive material (2,3,4) sandwiched between two release liners as the transfer sheet in accordance with Komuta teachings in the kit disclosed by Hartelius. Doing so, improve the appearance of the user since it provides a decoration that can be sized to the area of the body where it is being applied.

The patterned transfer sheet is die cut to form the plurality of releasable themed ornamental patterns (Figs. 2, 4 and 8-10).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fleming (US 4,533,051), Straub (US 4,824,702), Hayes (US 5,269,330), Traub et al. (US 5,782,379), Jang (US 5,975,087), Hartelius et al. (US 6,065,478), Chang (US 6,328,039 B1), Amen-Ra A (US 6,472,039 B1) and House (US 2002/014912 A1) are cited to show state of the art with respect to kit for decorating a human body that has some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

(Signature)

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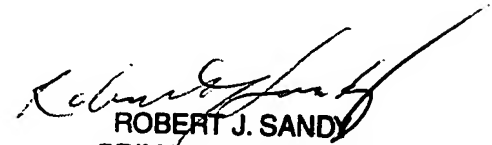
Art Unit: 3677

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Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

RCR
rcr

January 10, 2005


ROBERT J. SANDY
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/626,442	Applicant(s)/Patent Under Reexamination SCOZZAFAVA, FRANK CHARLE	
	Examiner Ruth C Rodriguez	Art Unit 3677	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-4,533,051	08-1985	Fleming, Ray D.	206/563
	B	US-4,824,702	04-1989	Straub, Dale K.	428/15
	C	US-5,269,330	12-1993	Hayes, DeeAnn	132/200
	D	US-5,782,379	07-1998	Traub et al.	221/93
	E	US-5,975,087	11-1999	Jang, Sung Yong	132/73
	F	US-6,035,857	03-2000	Hartelius et al.	132/73
	G	US-6,065,478	05-2000	Hartelius et al.	132/73
	H	US-6,328,039	12-2001	Chang, Sung Yong	132/73
	I	US-6,472,039	10-2002	Amen-Ra A, Adolph	428/42.1
	J	US-2002/0106493	08-2002	Komuta et al.	428/195
	K	US-2002/0114912	08-2002	House, Robert E.	428/42.3
	L	US-2003/0131862	07-2003	Abraskin et al.	132/73
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet 1 of 1

Complete if Known

Application Number	
Filing Date	07/23/2003
First Named Inventor	Frank C. Scozzafava
Group Art Unit	
Examiner Name	
Attorney Docket Number	0003/001

U.S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

[illegible]

**Examiner
Signature**

Ruth C. Rodriguez

Date Considered

11/5/2004

*EXAMINER: Initialed if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² See attached Kinds of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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Sheet

of

Application Number

Filing Date

First Named Inventor

Frank C. Scozzafava

Group Art Unit

Examiner Name

Attorney Docket Number

0003/001

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS

[illegible]

**Examiner
Signature**

Ruth G. Rodriguez

Date _____

Considered

11/5/2004

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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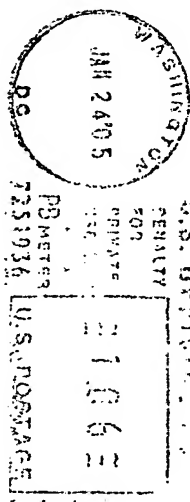
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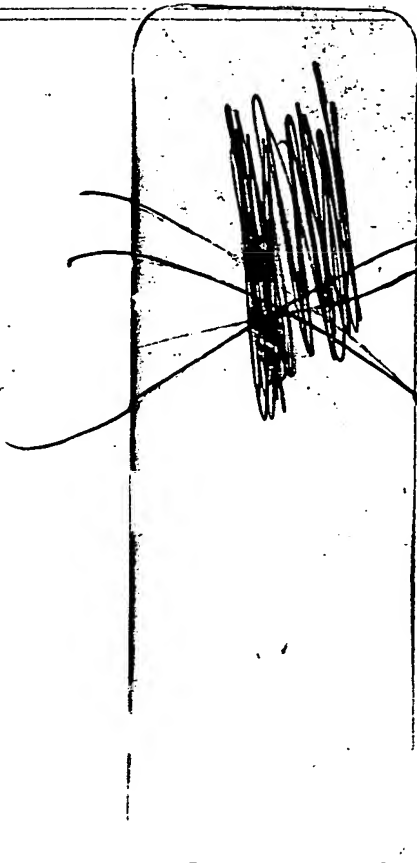
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